

IN THE  
COURT OF APPEALS FOR THE  
FOURTEENTH JUDICIAL DISTRICT OF TEXAS  
AT HOUSTON

FILED IN  
14th COURT OF APPEALS  
HOUSTON, TEXAS  
6/6/2017 4:45:51 PM  
CHRISTOPHER A. PRINE  
Clerk

MARC WAKEFIELD DUNHAM,  
Appellant

§  
§  
§  
§  
§  
§

V.

CAUSE NO. 14-17-00098-CR

STATE OF TEXAS  
Appellee

**APPELLANT'S FIRST MOTION  
TO EXTEND TIME TO FILE THE BRIEF**

TO THE HONORABLE FOURTEENTH COURT OF APPEALS:

Marc Wakefield Dunham, appellant, moves to extend the time to file the brief, and would show as follows:

I.

This is an appeal from a misdemeanor conviction for deceptive business practices. The record was filed on May 17, 2017. Josh Schaffer, present counsel, substituted for L. Jeth Jones, II, prior counsel, on May 18. Appellant's brief is due on June 16.

II.

Counsel's recent and future obligations in other cases necessitate an extension of the deadline to file the brief:

- a. counsel filed petitions for discretionary review in the Texas Court of

Criminal Appeals on April 24, 2017, in State v. Kolander and State v. Smith, Nos. PD-0256-17, PD-0257-17, PD-0258-17, PD-0259-17, a pretrial appeal taken by the State in tampering with governmental records cases;<sup>1</sup>

- b. counsel filed an opening brief on April 27, 2017, in this Court in Ex parte Lesley Diamond, No. 14-17-0005-CR, an appeal from the denial of habeas corpus relief in a DWI case;
- c. counsel filed a reply brief on May 10, 2017, and had an evidentiary hearing on May 25 in United States v. Robert Earl Carter, No. 4:14-CR-00287, a §2255 proceeding in a tax fraud case in the United States District Court for the Southern District of Texas;
- d. counsel presented a speech on ineffective assistance of counsel at the University of Texas School of Law Conference on Criminal Appeals CLE in Austin on May 11, 2017; and
- e. counsel must file a motion for a certificate of appealability and brief in the United States Court of Appeals for the Fifth Circuit by June 14, 2017, in Paul Slater v. Lorie Davis, No. 17-70011, an appeal from the denial of habeas corpus relief in **a death penalty case**.

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<sup>1</sup> Schaffer is appointed to represent the State of Texas as an attorney *pro tem* in the Kolander and Smith cases. The appeal arises out of the trial court's order quashing indictments in these cases.

### III.

This Court may extend time to file a brief. TEX. R. APP. P. 10.5(b) & 38.6(d). This is appellant's first request for an extension of time to file the brief. He is on bond. This request is made in the interest of justice and not to delay the proceedings. He requests that the Court grant a 60-day extension of time to file the brief.

### **CONCLUSION**

Appellant requests that the Court grant a 60-day extension of time to file the brief.

Respectfully submitted,

/S/ Josh Schaffer

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MARC WAKEFIELD DUNHAM

### **CERTIFICATE OF SERVICE**

I served a copy of this motion on Eric Kugler, assistant district attorney for Harris County, by electronic mail on June 6, 2017.

/S/ Josh Schaffer

Josh Schaffer